

WELCOME AND CONGRATULATORY RESOLUTIONS

H.C.R. 73 - (Glasgow): Extending congratulations to Covelle Jones, State Artist 1984-1985.

S.C.R. 53 - By Parmer: Wishing UNICEF and its services to all children of the world a happy 40th birthday.

S.C.R. 54 - By Parmer: Evidencing approval and affirming support and faith in the principles on which the United Nations was founded.

S.R. 138 - By Howard: Expressing sincere appreciation to Superintendent Hubert Simpson.

S.R. 139 - By Howard: Extending congratulations to Superintendent Charles E. Mitchell.

S.R. 140 - By Sharp: Extending welcome to Dr. Harold High, Capitol Physician for the Day.

S.R. 143 - By Truan: Commending Mrs. Lillie Mitchell White.

ADJOURNMENT

On motion of Senator Brooks, the Senate at 11:56 o'clock a.m. adjourned until 11:00 o'clock a.m. tomorrow.

APPENDIX

Signed by Governor
(February 19, 1985)

S.C.R. 21

S.C.R. 25

TWENTY-FIFTH DAY
(Thursday, February 21, 1985)

The Senate met at 11:00 o'clock a.m., pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Harris, Henderson, Jones, Kothmann, Krier, Leedom, Lyon, McFarland, Mauzy, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Washington, Whitmire, Williams.

Absent-excused: Glasgow, Howard.

A quorum was announced present.

Senator Carlos Truan offered the invocation as follows:

This being the week we celebrate George Washington's birthday, this is a prayer that is attributed to him:

"Almighty God, who has given us this good land for our heritage, we humbly beseech Thee that we may always prove ourselves a people mindful of Thy favor and glad to do Thy will. Bless our land with honorable industry, sound learning and pure manners. Save us from violence, discord and confusion; from pride and

arrogance, and from every evil way. Defend our liberties and fashion into one united people the multitudes brought hither out of many kindred tongues.

Imbue with a spirit of wisdom those to whom, in Thy name, we entrust the authority of government, that there may be justice and peace at home, and that through obedience to Thy law, we may show forth Thy praise among the nations of the earth.

In the time of prosperity, fill our hearts with thankfulness; in the day of trouble, suffer not our trust in Thee to fail; all of which we ask through Jesus Christ, Our Lord. Amen."

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

LEAVES OF ABSENCE

Senator Glasgow was granted leave of absence for today on account of important business on motion of Senator Edwards.

Senator Howard was granted leave of absence for today on account of important business on motion of Senator Montford.

MESSAGE FROM THE HOUSE

House Chamber
February 21, 1985

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

S.C.R. 30, Designating March 22, 1985 as Texas Energy Education Day.

S.C.R. 34, Inviting the Honorable Phil Gramm to address a Joint Session of the 69th Legislature.

H.C.R. 74, Congratulating the artist who created "Fresh Paint: The Houston School" exhibit at the Houston Museum of Fine Arts.

H.C.R. 81, Honoring Midland County on its centennial.

H.C.R. 46, Commending William P. Daves, Jr., retiring member of the State Board of Insurance.

H.C.R. 48, Congratulating UNICEF on its 40th birthday.

H.C.R. 56, Honoring Mrs. Lillie Brown of Sanderson.

H.C.R. 58, Honoring Maxine Lee on occasion of retirement.

H.C.R. 59, In memory of Eugenia Riley of La Porte.

S.B. 165, Relating to the compensation of the district judges in Travis County.

H.C.R. 83, Commending Volunteers of America on its 89th birthday.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

REPORTS OF STANDING COMMITTEES

Senator Farabee submitted the following report for the Committee on State Affairs:

S.B. 395
S.B. 420
S.B. 424
S.B. 240 (Amended)
C.S.S.B. 366

Senator Traeger submitted the following report for the Committee on Intergovernmental Relations:

S.B. 281 (Amended)
H.B. 443
S.B. 334

Senator Santiesteban submitted the following report for the Committee on Natural Resources:

C.S.H.B. 2
C.S.H.J.R. 6
C.S.S.B. 8
S.B. 254
S.B. 128

HOUSE BILL ON FIRST READING

The following bill received from the House was read the first time and referred to the Committee indicated:

H.B. 448, To Committee on Intergovernmental Relations.

SENATE BILLS ON FIRST READING

The following bills were introduced, read first time and referred to the Committee indicated:

S.B. 544 by McFarland, Sarpalius Health and Human Resources
Relating to alcohol and other drug dependency coverage in certain individual group health insurance policies and other health coverage.

S.B. 545 by Traeger, Edwards State Affairs
Relating to the conveyance of certain state-owned real property in Navarro County.

S.B. 546 by Traeger Intergovernmental Relations
Amending the following sections and subsections of Subtitle F of Title 110B, Revised Civil Statutes, 1925, as amended (relating to the Texas County and District Retirement System), viz.: Section 52.001; Section 52.101(b); Section 52.110; Section 53.003(d); Section 53.105(c); Section 53.403(c); Section 53.601(e); Section 53.702(d); Section 53.703(a); Section 54.002(c); Section 54.201(a); Section 54.201(d); Section 54.205; Section 54.206; Section 54.303(b); Section 55.313(a); Section 55.313(b); Section 55.307(a); Section 55.402(c), and Section 55.404; further amending said Subtitle F by adding to Subchapter A of Chapter 51 three new sections, viz. a new Section 51.007 providing for reduction of annuity payments on request; a new Section 51.008 allowing certain representatives of members or annuitants to apply for, and to be paid, benefits due the member or annuitant; and a new Section 51.009, protecting the System and its officials in making benefit payments; amending Section 52.004 of Subtitle F of Title 110B by adding thereto a new subsection (c) prescribing the priorities and allocations in payment of benefits

undertaken by subdivisions that are abolished or that discontinue enrollment of new employees in the system; further amending Subtitle F of Title 110B by adding to Subchapter C of Chapter 53 a new Section 53.203 to authorize agreements for adjustment between participating subdivisions of certain obligations to fund benefits for persons successively employed by the subdivisions; further amending Subtitle F of Title 110B by adding to Subchapter B of Chapter 54 a new Section 54.107 allowing an additional optional benefit to be selected by members entitled to make a deferred retirement benefit selection; further amending Subtitle F of Title 110B by adding to Subchapter C of Chapter 54 a new Section 54.207 authorizing participating subdivisions to adopt a plan allowing members to qualify for certain benefits on the basis of credited service as set out in said new section; amending Section 54.502 of Title 110B by adding thereto a new subsection (f) to allow additional time and manner of proving a member's entitlement to extended supplemental death benefit coverage; further amending Subtitle F by adding to Chapter 54 a new Subchapter G authorizing a participating subdivision on the terms and conditions prescribed to make additional subdivision contributions to fund obligations undertaken under Subtitle F, or to reduce multiple matching credits of its members, or to both increase such contributions and reduce such credits; amending Section 55.403 of Title 110B to add thereto a new subsection (i) providing that each participating subdivision shall "pick-up" on the terms and conditions stated, the contributions required to be made by each member by Section 55.402; and declaring an emergency.

S.B. 547 by Caperton Health and Human Resources
Relating to the provision for spousal maintenance after the dissolution of certain marriages or putative marriages; adding Subchapter E to Chapter 3, Family Code.

S.B. 548 by Caperton Finance
Relating to the use of funds appropriated to the Texas Department of Corrections for the construction and completion of certain building projects.

S.B. 549 by Caperton Intergovernmental Relations
Relating to the purchase of equipment, materials, and supplies for the county road department in certain counties; amending Section 3.211, County Road and Bridge Act (Article 6702-1, Vernon's Texas Civil Statutes).

S.B. 550 by Caperton State Affairs
Relating to suspending or denying a minor's driver's license or permit for conduct that violates certain state laws; amending Section 54.042, Family Code, as amended.

S.B. 551 by Farabee Intergovernmental Relations
Relating to the appointment of bailiffs for the 97th Judicial District.

S.B. 552 by Farabee Intergovernmental Relations
Relating to the terms of court in the 97th Judicial District.

S.B. 553 by Mauzy Jurisprudence
Relating to the appointment and functions of volunteer advocates in suits affecting the parent-child relationship.

S.B. 554 by Blake State Affairs
Relating to the requirements for operating as a motor carrier.

S.B. 555 by Glasgow Intergovernmental Relations
Relating to the jurisdiction of the county court and district court in Eastland County.

S.B. 556 by Sarpalius State Affairs
Relating to a waiver of nepotism restrictions in small school districts with an inadequate labor pool.

- S.B. 557** by Sarpalius Education
Relating to State Board of Education rules limiting participation in extracurricular activities.
- S.B. 558** by Sarpalius Jurisprudence
Relating to venue in suits involving the Texas Historical Commission.
- S.B. 559** by Sarpalius Natural Resources
Relating to the labeling of agricultural and vegetable seed.
- S.B. 560** by Sarpalius Natural Resources
Relating to the date for election of directors of the North Plains Ground Water Conservation District No. Two and validation of certain elections, actions, procedures, and expenditures of the district.
- S.B. 561** by Lyon Intergovernmental Relations
Relating to heart and lung disease death or disability benefits for certain fire fighters.
- S.B. 562** by Lyon Criminal Justice
Relating to the use of deadly force to prevent an assault on a peace officer in certain circumstances.
- S.B. 563** by Leedom Education
Relating to funding of public school kindergarten.
- S.B. 564** by Montford Intergovernmental Relations
Relating to the creation of the constitutional office of criminal district attorney of Yoakum County.
- S.B. 565** by Montford Intergovernmental Relations
Relating to fees charged by county clerks and clerks of county courts for certain probate services.
- S.B. 566** by Montford Jurisprudence
Relating to subpoena procedures under the Administrative Procedure and Texas Register Act.
- S.B. 567** by Sarpalius State Affairs
Relating to the kinds of relationships covered by the nepotism laws.
- S.B. 568** by Edwards Finance
Relating to the inclusion of Texas State Technical Institute among the institutions eligible to benefit from an existing appropriation for purchased utilities.
- S.B. 569** by Leedom State Affairs
Relating to the use of a merit system of personnel administration by certain state agencies and the abolition of the Texas Merit System Council.
- S.B. 570** by Lyon Criminal Justice
Relating to the competency of a child to testify in a criminal or civil proceeding.
- S.B. 571** by Mauzy Education
Relating to the minimum salary of certain school district personnel.
- S.B. 572** by Mauzy State Affairs
Relating to collective bargaining rights of certain public employees.
- S.B. 573** by Glasgow Education
Relating to the public junior college reimbursement fund.
- S.B. 574** by Glasgow Criminal Justice
Relating to the punishment for repeat and Habitual Felony offenders and punishment for offenses committed in violation of the Controlled Substances Act.

S.B. 575 by Jones Finance
Relating to the approval of appraisal records by an appraisal review board.

S.B. 576 by Truan State Affairs
Relating to health and sanitation facilities for certain railroad employees.

S.B. 577 by Santiesteban Natural Resources
Relating to the protection of endangered, threatened, or protected plants; providing penalties.

S.B. 578 by Parker Education
Relating to the implementation of Section 17(d), Article VII, Texas Constitution; providing for the allocation by equitable formula of the annual appropriation made under Section 17(a), Article VII, Texas Constitution, to the governing boards of eligible agencies and institutions of higher education; adding a new Chapter 60 to Title 3, Texas Education Code; and declaring an emergency.

RESOLUTIONS SIGNED

The President announced the signing in the presence of the Senate the following enrolled resolutions:

H.C.R. 52

H.C.R. 57

H.C.R. 73

SENATE RESOLUTION 141

Senator Williams offered the following resolution:

S.R. 141, In memory of Bill Robinson.

The resolution was read.

On motion of Senator Traeger and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Williams and by unanimous consent, the resolution was considered immediately and was adopted by a rising vote of the Senate.

GUESTS PRESENTED

Senator Williams introduced members of Mr. Robinson's family; his mother and father, Mr. and Mrs. Jim Robinson, and his sister, Susan.

The Senate welcomed them as guests for today.

SENATE RESOLUTION 142

Senator Parker offered the following resolution:

S.R. 142, Designating the 211th Engineer Dredge Detachment of the Texas Army National Guard as the Official Navy of Texas.

The resolution was read.

On motion of Senator Parker and by unanimous consent, the resolution was considered immediately and was adopted.

GUESTS PRESENTED

Senator Parker escorted a delegation from the 211th Dredge Detachment of the Army National Guard to the President's rostrum.

The President was presented a helmet and was made an Honorary Dredgemaster.

GUEST PRESENTED

Senator Traeger was recognized and introduced Dr. Carlos Campos of New Braunfels, Capitol Physician for the Day.

The Senate expressed their appreciation to Dr. Campos.

COMMITTEE SUBSTITUTE SENATE BILL 43 ON SECOND READING

On motion of Senator Leedom and by unanimous consent, the regular order of business, Senate Rule 89 and all other necessary rules were suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 43, Relating to the acquisition, disposition, and management of certain property belonging to the state.

The bill was read second time.

Senator Leedom offered the following amendment to the bill:

Floor Amendment No. 1

Amend **C.S.S.B. 43** in Section 2 by striking Section 31.156 of the Natural Resources Code in its entirety and inserting in lieu thereof the following:

"Sec. 31.156. PROPERTY REVIEW. (a) The division shall review the real property inventory of each state agency not less than every four years, and a review shall be made during the calendar year before the agency is scheduled for abolition under the Texas Sunset Act (Article 5429k, Vernon's Texas Civil Statutes). The division may verify the accuracy of inventory records provided by an agency.

"(b) The division shall identify the real property not being used or being substantially underused and make recommendations to the commissioner regarding the use of the property or regarding a real estate transaction involving the property. The recommendations shall include an analysis of the highest and best use to which the property may legally be placed. It shall include recommendations for alternative uses of the property addressing the following options:

(1) Potential for commercial or agricultural lease of the property;
(2) Use of the property by another state agency or department; or
(3) Any other real estate transaction or use that the division may deem to be in the best interest of the state. The division shall solicit proposals and shall accept any unsolicited proposals about real estate transactions involving the property that would be of significant benefit to the state.

"(c) The division shall, on completion of a review, submit to the commissioner any information pertinent to the evaluation of a real estate transaction involving the real property, including the current market value of the property and including an evaluation of any proposals received from private parties that would be of significant benefit to the state. If the division submits an evaluation of a sale of property, it must also submit an evaluation of the lease potential of the property. Recommendations for sale shall only be made after the potential for lease or use by another state agency has been thoroughly analyzed and rejected."

The amendment was read.

Senator Traeger offered the following amendment to the pending amendment to the bill:

Floor Amendment No. 2

Amend Floor Amendment No. 1 by Leedom to **C.S.S.B. 43** by striking Section 31.158(a) of the Natural Resources Code in its entirety and inserting in lieu thereof the following:

“Section 31.158. REAL ESTATE TRANSACTION. (a) If the legislature authorizes a real estate transaction involving real property owned by the state, the division shall take possession and control of the property and shall complete the transaction on behalf of the state. Proceeds from the real estate transaction shall be deposited in the Texas capital trust fund unless the proceeds are dedicated by the constitution of this state to another fund or unless the enabling legislation ordering the real estate transaction provides otherwise.”

The amendment was read and was adopted.

Senator Edwards offered the following amendment to the pending amendment to the bill:

Floor Amendment No. 3

Amend Floor Amendment No. 1 by Leedom to **C.S.S.B. 43** by striking Section 31.159(b) of the Natural Resources Code in its entirety and inserting in lieu thereof the following:

“(b) The division must give to the School Land Board a written notice of the proposed sale. To exercise the option, the School Land Board, not later than the 30th day after the date the notice can first be considered by the board at a regular meeting, must give written notice to the division stating that the board has decided to exercise the option. The School Land Board must complete the cash purchase not later than the 120th day after the date the division receives the notice from the board.”

The amendment was read and was adopted.

Question on the adoption of Floor Amendment No. 1 as amended, the amendment as amended was adopted.

On motion of Senator Leedom and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

COMMITTEE SUBSTITUTE SENATE BILL 43 ON THIRD READING

Senator Leedom moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.S.B. 43** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 0.

Absent: Sarpalius, Washington.

Absent-excused: Glasgow, Howard.

The bill was read third time and was passed by the following vote: Yeas 27, Nays 0. (Same as previous roll call)

SESSION TO CONSIDER EXECUTIVE APPOINTMENTS

The President announced the time had arrived to consider the Executive appointments to agencies, boards and commissions. Notice of submission of these names for consideration was given yesterday by Senator Howard.

Senator Kothmann moved confirmation of the nominees reported yesterday by the Committee on Nominations.

The President asked if there were requests to sever nominees.

There were no requests offered.

NOMINEES CONFIRMED

The following nominees as reported by the Committee on Nominations were confirmed by the following vote: Yeas 28, Nays 0.

Absent: Sarpalius.

Absent-excused: Glasgow, Howard.

Members, Board of Regents, Texas State University System: JACK L. MARTIN, Travis County; PHILIP G. WARNER, Harris County.

Member, Board of Regents, Texas A&M University System: L. LOWRY MAYS, Bexar County.

Adjutant General: GENERAL JAMES T. DENNIS, Tarrant County.

Members, Texas Low-Level Radioactive Waste Disposal Authority: JAMES P. ALLISON, Travis County; DR. ELBERT WHORTON, JR., Galveston County.

Member, Texas Commission on Uniform State Laws: STANLEY PLETTMAN, Jefferson County.

Members, Texas Water Well Drillers Board: GARY DEAN GRANT, Hale County; MURRAY DON MCKINLEY, SR., Frio County.

Members, Hospital Advisory Council: TERRIE LYNN BROWN, Harris County; JAMES E. BULLARD, Deaf Smith County; A. J. GALLERANO, Harris County; O. RAY HURST, Travis County; ELIZABETH L. KIMMEL, Harris County; WHEELER B. LIPES, Nueces County; DORA F. OLIVO, Fort Bend County; MARGARET READ, Dallas County.

Member, Texas Judicial Council: JUDGE CHARLES W. BARROW, McLennan County.

Member, Board of Pardons and Paroles: WINONA WILSON MILES, Travis County.

Member, Texas Surplus Property Agency: GERALD D. IRONS, Montgomery County.

COMMITTEE SUBSTITUTE SENATE BILL 252 ON SECOND READING

On motion of Senator Farabee and by unanimous consent, the regular order of business, Senate Rule 89 and all other necessary rules were suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 252, Relating to juvenile law-enforcement records and files; their keeping and permitted disclosure and use and certain fees; amending the Family Code, as amended, by amending Section 51.14; Subsections (a), (b), (e), (f), and (h), Section 51.15; and Section 51.16; and amending Subsection (a), Section 3, Article 37.07, Code of Criminal Procedure, 1965, as amended.

The bill was read second time.

Senator Washington offered the following amendment to the bill:

Amend **C.S.S.B. 252** on page 4, line 22 by inserting the following after the period:

Such findings may be introduced only during the punishment stage of a trial. If the finding is admitted into evidence, the court may allow the state and the defendant to offer evidence concerning the facts and circumstances surrounding the finding.

The amendment was read and was adopted.

On motion of Senator Farabee and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

COMMITTEE SUBSTITUTE SENATE BILL 252 ON THIRD READING

Senator Farabee moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that C.S.S.B. 252 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 1.

Nays: Washington.

Absent-excused: Glasgow, Howard.

The bill was read third time and was passed.

COMMITTEE SUBSTITUTE SENATE BILL 298 ON SECOND READING

On motion of Senator Parmer and by unanimous consent, the regular order of business, Senate Rule 89 and all other necessary rules were suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 298, Relating to the definition of a motor bus company for purposes of regulation by the Railroad Commission of Texas.

The bill was read second time and was passed to engrossment.

COMMITTEE SUBSTITUTE SENATE BILL 298 ON THIRD READING

Senator Parmer moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that C.S.S.B. 298 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 1.

Nays: Washington.

Absent-excused: Glasgow, Howard.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0.

Absent-excused: Glasgow, Howard.

MEMORIAL RESOLUTIONS

S.R. 144 - By Montford: Memorial resolution for James Ronald Haney.

S.R. 145 - By Barrientos: Memorial resolution for Lyndon L. Brown.

S.R. 146 - By Traeger: Memorial resolution for Mrs. Margaret Nell Brown.

S.R. 147 - By Brooks: Memorial resolution for Joseph Lawrence Sheldon, Sr.

CONGRATULATORY RESOLUTIONS

H.C.R. 81 - (Sims): Honoring Midland County on its centennial.

S.R. 148 - By Parmer: Extending congratulations to Howard Hankins McPeak.

ADJOURNMENT

On motion of Senator Brooks, the Senate at 11:43 o'clock a.m. adjourned until 11:00 o'clock a.m. Monday, February 25, 1985.

APPENDIX

Sent to Governor
(February 21, 1985)

S.C.R. 35

TWENTY-SIXTH DAY
(Monday, February 25, 1985)

The Senate met at 11:00 o'clock a.m., pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Krier, Leedom, McFarland, Mauzy, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Washington, Whitmire, Williams.

Absent-excused: Lyon.

A quorum was announced present.

Senator Bob Glasgow offered the invocation as follows:

Our Father, who art in Heaven, hallowed be Thy name. Thy kingdom come, Thy will be done, on earth as it is in Heaven.

Our Father, those of us that serve in this Senate come before Your holy throne of mercy and grace asking for Your special gift of discernment. As we go about trying to make a better Texas, and trying to understand the nature of Your kingdom on the earth, give us the inner power to see people as Jesus saw them, that we may see in the hearts of our constituents and do Thy will on earth and make Thy kingdom truly come. In Christ's name we pray, Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of Thursday, February 21, 1985, was dispensed with and the Journal was approved.

LEAVE OF ABSENCE

Senator Lyon was granted leave of absence for today on account of important business on motion of Senator Mauzy.

MESSAGE FROM THE HOUSE

House Chamber
February 25, 1985

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following: